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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/532,676	04/26/2005	Yumiko Kato	2005_0612A	6473
513 7590 10/10/2008 WENDEROTH, LIND & PONACK, L.L.P. 2033 K STREET N. W. SUITE 800 WASHINGTON, DC 20006-1021				
EXAMINER SHELEHEDA, JAMES R				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/532,676

Applicant(s)

KATO ET AL.

Examiner

JAMES SHELEHEDA

Art Unit

2424

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 July 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,5-15,17-20,22 and 23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,5-15,17-20,22 and 23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 07/21/08 have been fully considered but they are not persuasive.

a. On pages 12-13, of applicant's response, applicant argues that Abe and Alexander fail to disclose "the transfer of the tag information among viewers". In response, it is noted that none of the claims actually require transferring the tag information among viewers, as applicant suggests. The claims recite that the tag information is transmitted to the delivery apparatus and to the communications apparatus. There is no requirement that the information be transmitted to other viewers. Abe discloses transmitting the tag information from the user equipment to communications apparatus to allow monitoring and purchasing (paragraphs 276, 285). Alexander discloses transmitting viewer information to the delivery apparatus (column 29, lines 12-30 and column 33, lines 9-15). Therefore, applicant's arguments are not convincing, as in combination, Abe and Alexander disclose the current claim limitations.

Furthermore, it is noted that Alexander discloses wherein viewer profile information can be locally analyzed by the EPG and wherein the profile can include comparison to other viewers profiles (column 29, lines 14-21 and column 30, lines 38-44). Thus, although not required by the current claims, Alexander

does disclose transmitting viewer information from one viewer system to another viewer.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-2, 5-11, 14, 15, 17-20, 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abe et al. (Abe) (US 2005/0039111 A1) (of record) in view of Alexander et al. (Alexander) (6,177,931) (of record).

As to claim 1, 14 and 19, Abe discloses a delivery system comprising a delivery apparatus which delivers a program (Fig. 1, 2, paragraph 252), a receiving apparatus which receives the program (3), and a communication apparatus which can communicate with said receiving apparatus via a communication network (Fig. 1-2; paragraph 252, 270, 285), wherein said receiving apparatus includes:

a tag unit operable to mark a specific portion of the received program or an object that appears in the program (paragraph 276);

a transmission unit operable to transmit tag information concerning the marked object to said communication apparatus (paragraph 276, 285). While Abe discloses collecting tag history indicating a history concerning the marking by the tag unit (280), transmission history information indicating a history concerning the transmission of tag

information to said communication apparatus by said second transmission unit (user access of additional information for products within the program; see Abe at paragraph 285 and paragraphs 781-782), he fails to specifically disclose a transmission unit operable to transmit, to said delivery apparatus, tag history information indicating a history concerning the marking by the tag unit and wherein said delivery apparatus includes a first receiving unit operable to receive the tag history information transmitted from said receiving apparatus and an analysis unit operable to perform an analysis for the program based on the tag history information received by said first receiving unit, wherein said first transmission unit is further operable to transmit, to said delivery apparatus, said first receiving unit is further receiver operable to receive the transmission history information transmitted from said receiving apparatus, said analysis unit is operable to count frequency of the transmission of the tag information for each program or object and specify a program or object with a high marking frequency.

In an analogous art, Alexander discloses a communication system including a receiving apparatus which will tag specific portions of a received program (user actions taken during the program; column 28, lines 30-67) and transmit the information to the broadcaster (column 29, lines 12-30) for analysis (column 29, lines 14-67), wherein said first transmission unit is further operable to transmit, to said delivery apparatus (transmitting the recorded user actions, including accessing of external information sources during a program; see Alexander at column 29, line 22-column 20, line 1-15), said receiving unit is further receiver operable to receive the transmission history information transmitted from said receiving apparatus (see Alexander at column 29,

lines 12-30), and said analysis unit is operable to count frequency of the transmission of the tag information for each program or object (see Alexander at column 29, lines 31-55 and Abe at paragraphs 781-782), and specify a program or object with a high marking frequency (see Alexander at column 29, line 55-column 20, line 44) for the benefit of identifying the programming preferences of the viewer (column 29, lines 56-67 and column 30, lines 1-44) so as to better tailor content to the viewer (column 29, lines 56-67 and column 30, lines 1-44).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Abe's system to include a transmission unit operable to transmit, to said delivery apparatus, tag history information indicating a history concerning the marking by the tag unit and wherein said delivery apparatus includes a first receiving unit operable to receive the tag history information transmitted from said receiving apparatus and an analysis unit operable to perform an analysis for the program based on the tag history information received by said first receiving unit, wherein said first transmission unit is further operable to transmit, to said delivery apparatus, said first receiving unit is further receiver operable to receive the transmission history information transmitted from said receiving apparatus, said analysis unit is operable to count frequency of the transmission of the tag information for each program or object and specify a program or object with a high marking frequency, as taught in combination with Alexander, for the benefit of identifying the programming preferences of the viewer so as to better tailor content to the viewer.

As to claim 2, 15 and 20, Abe and Alexander disclose wherein said analysis unit is operable to count frequency of the marking for each program or object based on the tag history information (see Alexander at column 29, lines 36-55), and specify a program or an object with a high marking frequency (see Alexander at column 29, lines 36-67).

As to claim 5, Abe and Alexander disclose a distributor apparatus which distributes online the object that appears in the program (1, see Abe at Fig. 1), said distributor apparatus being connected to said communication apparatus via the communication network (see Abe at Fig. 1; paragraph 285),

wherein said communication apparatus includes:

a receiving unit operable to receive the tag information transmitted from said receiving apparatus (see Abe at paragraph 285); and

a purchase unit operable to purchase the object by communicating with said distributor apparatus (see Abe at Fig. 1; paragraph 264, 272-273), according to information concerning the object included in the tag information received by said receiving unit (see Abe at paragraph 271-272).

As to claim 6, 17 and 22, Abe and Alexander disclose wherein said communication apparatus further includes a transmission unit operable to transmit purchase information concerning the purchase of the object to said delivery apparatus (see Abe at Fig. 1-2, paragraphs 276-277),

said delivery apparatus further includes

a second receiving unit operable to receive the purchase information transmitted from said communication apparatus (see Abe at Fig. 1-2, paragraphs 276-277), and

said analysis unit is operable to judge i) whether or not the object has been purchased based on the tag information transmitted from said receiving apparatus (see Alexander at column 29, lines 12-55), by collating the purchase information received by said second receiving unit with the transmission history information received by said first receiving unit (see Abe at Fig. 1-2, paragraphs 276-277), and ii) in the case where the object has been purchased based on the tag information, and specify a program or art-object with high introduction effect by counting the frequency for each program or object (see Alexander at column 29, lines 36-67 and column 30, lines 1-44).

As to claim 7 and 23, Abe and Alexander disclose wherein the transmission history information includes information for specifying a destination of the tag information and the object (see Abe at paragraphs 270-271),

the purchase information includes information for specifying said communication apparatus and the object (see Abe at paragraphs 270-273), and

said analysis unit is operable to judge that the object is purchased based on the tag information in the case where the destination and the object that are indicated in the transmission history information match respectively to said communication apparatus and the object that are indicated in the purchase information (see Abe at paragraphs 270-273 and Alexander at column 29, lines 12-67 and column 30, lines 1-44).

As to claim 8 and 18, Abe and Alexander disclose wherein said delivery apparatus further includes a program creation unit operable to create a program using a result of the analysis obtained by said analysis unit as a material, and deliver the created program (see Abe at paragraph 277).

As to claim 9, Abe and Alexander disclose wherein said program creation unit is operable to create the program by linking a previously produced program template and the result of the analysis (see Abe at paragraph 277 and paragraph 284).

As to claim 10, Abe and Alexander disclose wherein said second transmission unit, according to a receiving function of said communication apparatus, is operable to select only a portion of the tag information, and transmit the selected information to said communication apparatus (see Abe at paragraphs 283-285).

As to claim 11, Abe and Alexander disclose wherein said second transmission unit is operable to convert a format of data, from one of a moving picture, a still picture, voice and text (see Abe at paragraphs 283-285) to another one of the formats (formatted for transmission over the network; see Abe at paragraph 270), in accordance to the receiving function of said communication apparatus, the data being included in the tag information (see Abe at paragraph 270).

4. Claims 12-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abe and Alexander, as applied to claim 5 above, and further in view of Baji et al. (Baji) (5,027,400) (of record).

As to claim 12, while Abe and Alexander disclose a communication apparatus, they fail to specifically disclose wherein the communication apparatus includes:

a selection unit operable to select only a portion of the tag information received by said receiving unit according to functions concerning a display output and voice reproduction of said communication apparatus and a presentation unit operable to output the selected tag information for display or reproduce the selected tag information in voice.

In an analogous art, Baji discloses a communication apparatus (Fig. 37, terminal) which will selectively output and display information received from the subscriber (column 23, lines 5-65) for the benefit of providing confused viewers with additional help (column 23, lines 5-65) when using an interactive home purchasing system (Fig. 29C; column 23, lines 7-41).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Abe and Alexander's system to include a selection unit operable to select only a portion of the tag information received by said receiving unit according to functions concerning a display output and voice reproduction of said communication apparatus and a presentation unit operable to output the selected tag information for display or reproduce the selected tag information in voice, as taught in

combination with Baji, for the benefit of providing additional support for inexperienced users.

As to claim 13, Abe, Alexander and Baji disclose wherein said selection unit is further operable to convert a format of data, from one of a moving picture, a still picture, voice and text to another one of the formats (see Abe at paragraphs 283-285), in accordance to the functions concerning the display output or voice reproduction of said communication apparatus (see Baji at column 23, lines 5-65), the data being included in the tag information received by said receiving unit (see Abe at paragraphs 283-285).

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with

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all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

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on _____.
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Typed or printed name of person signing this certificate:

Signature: _____

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Typed or printed name of person signing this certificate:

Signature: _____

Registration Number: _____

Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

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7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMES SHELEHEDA whose telephone number is (571)272-7357. The examiner can normally be reached on Monday - Friday, 9:00AM - 5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

James Sheleheda
Examiner, Art Unit 2424

JS

/Chris Kelley/
Supervisory Patent Examiner, Art Unit 2623